

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:
Amy Leigh Brown and
Richard Dale Brown II

Debtors.

Chapter 7 No. HL-09-04758

Hon. Jeffrey R. Hughes

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND ENTRY OF ORDER WAIVING
THE PROVISION OF FRBP 4001(A)(3)**

NOW COMES Mortgage Electronic Registration Systems, Inc., as Nominee for Lender and Lender's Successors and/or Assigns with CitiMortgage, Inc., as Servicer for Lender, by and through its attorneys, Trott & Trott, P.C., and shows unto this Honorable Court as follows:

1. That Movant is a holder of a mortgage on property owned by the Debtor(s) and located at 743 Cherry St, Charlotte, MI 48813-1701 (see attached copy of loan document(s));
2. That the Debtor(s) filed Chapter 7 Bankruptcy on April 22, 2009;
3. That pursuant to 11 U.S.C. § 362(d)(1), upon the request of any party in interest, the court shall grant relief from stay for cause, including lack of adequate protection of such party in interest. Cause may also include failure of the debtor to comply with obligations under 11 U.S.C. § 521(a)(2);
4. That pursuant to the mortgage agreement, the Debtor(s) are required to remit monthly payments to Movant currently in the amount of \$887.41;
5. That pursuant to the books and records of Movant, the Debtor(s) has failed to remit the required payments;
6. That Movant is not adequately protected as the direct payments are not being remitted and the loan is currently five (5) months in default, due and owing for April 1, 2009. At the time of the default, the payment amount was \$926.16. Payment amounts may have changed since that time;
7. That pursuant to 11 U.S.C. § 362(d)(2)(A) and (B), the Court shall grant relief from the stay if the Debtors do not have any equity in the property and the property is not necessary to an effective reorganization;
8. That the approximate market value of the subject property is \$97,028.00;
9. That after the hypothetical costs of the sale of the subject property are deducted, the true approximate market value is \$87,325.20;
10. That the total debt owing to Movant, is approximately \$99,690.00;

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11. That to the knowledge and belief of Movant, Option 1 Credit Union may have an additional \$14,056.00 interest in the subject property;
12. That no other creditor will receive any benefit from the sale of the subject property;
13. That in the event the automatic stay is terminated to allow Creditor to commence or continue its federal and/or state law rights as to the property, and Creditor deems the property is physically abandoned by the debtor(s)/homeowner(s), or by consent of the debtor(s)/homeowner(s), Creditor may also seek to shorten the Michigan post foreclosure statutory redemption period. A Chapter 7 Trustee may have the same rights and defenses as the Debtor(s) should Creditor seek to shorten the redemption period.
14. That pursuant to Local Bankruptcy Rule 9013(c)(1)(B), attached is a copy of the proposed ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY AND WAIVING THE PROVISION OF FRBP 4001(a)(3) labeled as Exhibit "1";

WHEREFORE, Movant respectfully requests that the Court enter an ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY AND WAIVING THE PROVISION OF FRBP 4001(a)(3) for good cause shown pursuant to 11 U.S.C. §362(d)(1) and/or (d)(2), and that the Order is effective immediately upon entry by this Court notwithstanding the provision of FRBP 4001(a)(3); and whatever other relief the Court deems just and equitable.

Respectfully Submitted,
Trott & Trott, P.C.

Dated: August 28, 2009

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EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
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**ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY AND WAIVING THE PROVISION
OF FRBP 4001(a)(3)**

Mortgage Electronic Registration Systems, Inc., as Nominee for Lender and Lender's Successors and/or Assigns with CitiMortgage, Inc., as Servicer for Lender, by and through its attorneys, Trott & Trott, P.C., having filed a Motion For Relief From The Automatic Stay with respect to the property located at 743 Cherry St, Charlotte, MI 48813-1701; and the Court being in receipt of the Motion, and the Court being fully advised in the premises:

IT IS HEREBY ORDERED that the Automatic Stay is hereby terminated as to Movant with respect to the property located at 743 Cherry St, Charlotte, MI 48813-1701. This Order is effective immediately upon entry by this Court notwithstanding the provision of FRBP 4001(a)(3). This Order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.

END OF ORDER